

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3173

William Rogers, Jr.

Appellant,

v.

Jason Adams, Officer, #1195, sued in
individual and official capacities;
Chad Staley, Officer, #1219, sued in
individual and official capacities;

Appellees,

Amy Jacobsen, sued in individual and
official capacities; John Colborn, sued
in individual and official capacities,

Defendants.

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Appeal from the United States
District Court for the
District of Nebraska

[UNPUBLISHED]

Submitted: May 31, 2004

Filed: July 6, 2004

Before BYE, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

William Rogers, a Nebraska inmate, appeals from the final judgment entered in the District Court¹ for the District of Nebraska granting summary judgment to defendant police officers Chad Staley and Jason Adams in Rogers's 42 U.S.C. § 1983 action. For reversal, Rogers argues his claims were not barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994) (to recover damages for allegedly unconstitutional conviction or imprisonment, § 1983 plaintiff must prove conviction or sentence has been reversed, expunged, declared invalid, or called into question). For the reasons discussed below, we affirm the judgment of the district court.

We review the grant of summary judgment de novo. See Hill v. Scott, 349 F.3d 1068, 1071 (8th Cir. 2003). We agree with the district court that Rogers's success on claims that the officers falsified police reports and provided false information at a probable cause hearing would imply the invalidity of his conviction for drug possession. We thus conclude that Heck bars these claims, even if Rogers's time for filing a state postconviction motion has passed. See Cunningham v. Gates, 312 F.3d 1148, 1153 n.3 (9th Cir. 2002) (noting Heck barred § 1983 claims despite fact that habeas relief was time-barred), cert. denied, 538 U.S. 960 (2003). We also conclude the record shows there was no delay between Rogers's arrest for drug possession and the ensuing probable cause hearing, as both occurred on the same date. See County of Riverside v. McLaughlin, 500 U.S. 44, 56-57 (1991) (noting judicial probable cause determination should generally be made within 48 hours of warrantless arrest).

Accordingly, we affirm.

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.